

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

RON WESLEY HAYES

PLAINTIFF

v.

Civil No. 4:19-cv-04054

CORPORAL HENDERSON, Miller County
Detention Center (“MCDC”); NURSE KING,
MCDC; CAPTAIN ADAMS, MCDC;
SERGEANT GRIFFESON, MCDC; SERGEANT
STUDDARD, MCDC; and JOHN DOE OFFICERS,
Texarkana Police Department

DEFENDANTS

ORDER

Before the Court are Plaintiff’s Motion to Supplement his Amended Complaint (ECF No. 27) and Motion to Change Venue. (ECF No. 28). Defendants have not responded, and the Court finds no response is necessary to rule on the motions.

Plaintiff Ron Wesley Hayes filed this case *pro se* pursuant to 42 U.S.C. § 1983 on May 23, 2019. (ECF No. 1). Plaintiff filed an Amended Complaint on June 12, 2019. (ECF No. 6). His application to proceed *in forma pauperis* (“IFP”) was granted that same day. (ECF No. 7). Plaintiff is asserting claims against Defendants Henderson, Studdard, Adams, Griffeson and John Doe Officers from the Texarkana Arkansas Police Department for excessive force that occurred on April 19, 2019. He is also asserting a claim against Defendant King for denial of medical care.

1. Motion to Supplement Complaint (ECF No. 27)

Plaintiff seeks to supplement his Amended Complaint to bring claims against Robert H. Harrison, the Chief of the Texarkana Arkansas Police, for “refuseing to pay my Dr. bill to have sirger on my face...” (ECF No. 27, p. 1). He also seeks to add Connie Mitchell, the Prosecutor of Miller County, as a defendant for “falsey charging me when I was beat robbed in almost killed...” *Id.*

The Court finds Plaintiff has stated a plausible claim against Robert H. Harrison, the Chief of Police for alleged denial of medical care which is related to the claims against the named defendants in this lawsuit. Accordingly, Plaintiff's motion to supplement his Amended Complaint (ECF No. 27) to assert a claim against Robert H. Harrison will be granted.

However, Plaintiff's Motion to Supplement his Amended Complaint to assert a claim against Connie Mitchell, the prosecutor of Miller County must be denied because it would be futile as Ms. Mitchell is immune from suit. The United States Supreme Court in *Imbler v. Pachtman*, 424 U.S. 409 (1976), established the absolute immunity of a prosecutor from a civil suit for damages under 42 U.S.C. § 1983 "in initiating a prosecution and in presenting the State's case." *Id.* at 427. This immunity extends to all acts that are "intimately associated with the judicial phase of the criminal process." *Id.* at 430.

Accordingly, Plaintiff's Motion to Supplement his Amended Complaint (ECF No. 27) is **GRANTED in part and DENIED in part.** Plaintiff's motion is **GRANTED** as to his request to add Robert H. Harrison as a defendant to assert a claim for denial of medical care. **The Clerk is DIRECTED to add Robert H. Harrison as a defendant in this lawsuit.**¹ Plaintiff's motion to Supplement his Amended Complaint to add Connie Mitchell is **DENIED**.

2. Motion to Change Venue (ECF No. 28)

In this motion Plaintiff asks the Court to "give me a chang of venue are a peasts bond with leg monitor intill this be dell with..." (ECF No. 28). Plaintiff is not asking to change the location/venue of this lawsuit. Instead, he is asking the Court to release him on bond. The Court has no jurisdiction or authority concerning whether Plaintiff must remain incarcerated as a result

¹ The Court notes Chief Harrison has been initially named as a Defendant in order to identify and serve the police officers who allegedly used excessive force against Plaintiff. A separate order of service will be issued for Chief Harrison regarding Plaintiff's allegations against him for denial of medical care.

of pending state criminal charges. Accordingly, Plaintiff's Motion to Change Venue (ECF No. 28) is **DENIED**.

IT IS SO ORDERED this 19th day of August 2019.

/s/ *Barry A. Bryant*

HON. BARRY A. BRYANT
UNITED STATES MAGISTRATE JUDGE